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CENTRAL INTELLIGENCE AGENCY

INFORMATION REPORT

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COUNTRY Yugoslavia

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SUBJECT 1. Release of Frozen Funds
2. Restoration of American Property

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SUPPLEMENT TO REPORT NO.

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1. The Yugoslav Government's latest action has shifted the question of release of frozen funds and related questions, particularly that of the restitution of or indemnity for seized American-owned property, from the sphere of economic problems awaiting settlement by normal proceedings into an eminently political issue. The matter is carried still further by the request to place the question of unfreezing funds on the agenda of the UN Economic and Social Council, thereby requesting a verdict and condemnation of the US Government in the matter, which by this very request is labeled unfair and a breach of international practice.

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2. [redacted] understand what the Yugoslav Government hoped to gain. [redacted] the Yugoslav Government's position in this matter has been precarious from the start and these latest steps have made it worse. Whereas, in view of the US Government's willingness to have this question of seized American-owned property settled along with questions originating during or because of the war, seemingly tacitly agreeing that the matter of indemnity belongs in the same category, the Yugoslav Government could have obtained an agreement with good grace and without impairing its prestige. It is obvious now that the present regime has made such an assumption impossible and that the true cause of the indemnity claim will have to be disclosed. [redacted] the Yugoslav Government can avoid losing face.

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3. [redacted] the real causes for the indemnity claims are:

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(a) The apparently deliberate delaying and withholding of the restitution of American-owned property after the war in order to pass a nationalization law, and

(b) The passing of a nationalization law in which provisions to indemnify former owners are so inadequate as to render the action equal to confiscation.

These actions constitute a breach of international law. The established rule of "Denial of Justice" entitles the US Government to protect the interests of its nationals who may have been affected by such unlawful actions by means which would not be justified in normal circumstances. The action under (a) above constitutes

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an "administrative" and that under (b) a "legislative" denial of justice; and, in my opinion, justify the exertion of economic reprisals as well as diplomatic pressure. Discussion of these conclusions follows.

Delay in Restitution of American-owned Property

4. As a party to the "United Nations' Declaration against Economic Plundering of Enemy-Occupied Territories and on Invalidation of Axis Measures" of 5 Jan 43, the Yugoslav Government solemnly pledged itself to declare invalid any transfer of, or dealings with, property, rights and interests of any description whatsoever which are, or have been, situated in the territories which have come under occupation or control, direct or indirect, of Axis Powers, or which belong, or have belonged to persons resident in such territories. This applies whether such transfer or dealings have taken the form of open plunder or looting, or of transactions apparently legal in form, even when they purport to be voluntarily effected. The Yugoslav Government was under obligation to implement the invalidation of such transfers or dealings with property, rights or interests which had occurred during the occupation, and to assist any government party to this declaration to effect its purpose.

5. The Yugoslav Government did not fulfill this pledge and the law passed to effect restoration of the property described was not applied to the majority of American-owned property and never applied to any American-owned industrial property. This Government could be highly embarrassed were a list compiled showing the devices and methods employed by the regime to delay the restoration. Such a list would prove the regime's intention was to create the impression of doing everything and being willing to effect the restitution and at the same time to raise difficulties of a "technical" nature which alone prevented restitution until the regime considered it safe to pass a nationalization law. (The dilemma which faced the Government is obvious now: on the one hand party doctrine called for nationalization of all industrial property; on the other was the desire to accomplish as much as possible at the impending Peace Conference, among other ways, by creating the impression that those conditions of which the Western democracies did not approve had to be ascribed to conditions prevailing immediately after the war, when such measures were necessary, but that there is now a trend to normalize the Government's practice.)

6. One such device employed to delay restoration was the Government's deliverance, in about November 1946, of a circular note to all governments whose nationals owned industrial and other property in Yugoslavia, inviting the to initiate discussions for restoration of the property. Then the Yugoslav Government created all manner of difficulties when the governments concerned asked that visas be granted the owners or their representatives to come to the country. When v[illegible] had finally been granted the visitors, they were not allowed to visit their plants. Further difficulties were presented later when some governments accepted the proposal even under conditions laid down by the Yugoslavs. In the end no industrial property, with the exception of a few Czechoslovakian plants, was restored.

Nationalization Law

7. There is a possibility that the Yugoslav Government will claim the US Government made the release of frozen funds dependent on payment of indemnity, thus forfeiting its right to a "reprisal" because it violated international law and fair practice. Should this contention be made, [redacted] to point out:

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(a) The treatment of UK property, particularly its non-restoration, and the way in which the Yugoslav regime evaded restoring it until passage of the nationalization law, despite release of Yugoslav gold frozen during the war in Great Britain, and despite the promise given in the initialed draft agreement as a result of which the release was effected.

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(b) It was the Yugoslav Government which proposed starting negotiations to settle the problem of the American-owned property and the release of frozen funds at the same time. The US Government, in answering both notes, accepted the proposed negotiations, expressing the desire that these two questions, with some others -- eg Lend Lease, Plant A----ts discussed in the course of the impending negotiations. The Yugoslav Government accepted this suggestion.

(c) In the course of the US-Yugoslav financial negotiations last year I recall that the American delegation stated only that "they have the feeling that the question of American-owned property should be settled together with other questions under negotiation" or, on another occasion during the same negotiation, that "it would be desirable to settle also this question along with the others." (I believe this was a precaution stemming from a correct interpretation of international law, the US considering outright insistence on the contingency of the two questions as perhaps premature at that time.)

(d) The expressed "desire" to settle the question of American property along with the one of suffering cannot be interpreted as a discriminatory treatment of the Yugoslav case, because it had been attempted in most other instances up until then.

(e) Yugoslav nationals whose property is being administered by the US Alien Property Custodian can without discrimination apply for its return under provisions of Public Law 285 and 471.

Kosanovic's Press Conference

8. In connection with the negotiations Ambassador Kosanovic had another press conference. Regardless of his inferiority complex he usually enjoys those very much, but I am sure he did not enjoy this one, for these reasons: The note stated that the "Yugoslav Government would be willing (or is willing) to waive any complaints it might have about the validity of the US action in permitting the Government in Exile to use the funds." This was hard for Kosanovic to take. Although the wording is such as to imply US handling of the funds was not beyond suspicion and that there must be something doubtful about it, in reality he was dealing himself a severe blow. Use of frozen funds by the various Governments in Exile was regulated by law, a measure designed to enable those governments to contribute to the war effort. Obtaining a license for withdrawing frozen funds was a tedious procedure, requiring Cabinet approval of withdrawals. Kosanovic has been a Cabinet member when the most considerable sums have been withdrawn and he has, unfortunately, voted for the withdrawal.

9. His statement is interesting from these other points of view also:

(a) It has obviously been made under strict instructions as to the exact wording and represents an official statement binding the Government. The Yugoslav regime apparently chooses to forget that it made a declaration prior to recognition by the US Government, in which it acknowledged all obligations contracted by the Government in Exile, the financial ones being explicitly included.

(b) The Yugoslav Government thereby raises the question of continuity. The Government in Exile undoubtedly was the recognized and legitimate government and by virtue of the Subasic-Tito agreement the present Yugoslav Government claims to be the successor of the Exiled Government. In the statement it refers to the Government in Exile in the third person, declaring that government's use of the funds was unlawful. If the Government in Exile was not the legitimate government of that time, what, in the opinion of the present regime, was? Does the present government mean to refuse to acknowledge all international obligations of the Exiled Government and its legitimate predecessors? Surely the present regime would refuse to accept this interpretation and should make a declaration on the issue. The statement represents a blunder on its part -- perhaps a useful blunder from the point of view of the US.

10. As for the portion of the Ambassador's statement pertaining to the clause in t
note "that the Yugoslav Government would consider also undertaking other means
for the settlement of this problem," stating that this means legal action bef
25X1 US courts or before an international court [redacted] Presenting the
case to the International Court at The Hague requires previous acceptance of
25X1 the Court's jurisdiction for the case. The Yugoslav Government would perhaps
willing to concede this, but [redacted] it could be most unwilling to accept a
general, or even conditioned, jurisdiction of the Court. [redacted] that US Gove
25X1 ment could insist on such a declaration of general acceptance, in accordance with
the conditions under which it accepted the jurisdiction, before it would even
consent to contest the case.

11. There is considerable doubt as to existence of a statutory basis for taking le
action before a US court for the recovery of the funds. The question of the
eligibility of a foreign national for the remedy of return or recovery is a
highly controversial one which has not yet been cleared by court practice.

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